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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,647	04/03/2000	Phillip Apple	1567	4431

7590

02/12/2003

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/541,647

Applicant(s)

APPLE, PHILLIP

Examiner

Winnie Yip

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 9/11/03 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to applicant's amendment filed on October 1, 2002.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

1. Claims ~~2,3~~²⁻⁶ and 10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim since claim 1 is cancelled. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form.

Due to the confusion, the claims ~~2-3~~²⁻⁶ and 10 are being treated as depending upon claim 9 on merits. A proper correction is required.

Claim Rejections - 35 USC § 103

2. Claims 2-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over TikiTrader Inc. in view of Palapa Kings, Inc, and further in view of Royal Thatch, Inc.

TikiTrader Inc. teaches a thatched umbrella (see attachment, page 2) comprising a conventional umbrella frame having a pole, a hub, ribs, and struts, said umbrella frame being openable and closeable, a woven palm thatch piece being formed by a plurality of pieces of thatched skirts (see page 1) and being secured over the umbrella frame by suitable fastening means such as by screws, and a finial disposed on top of the pole, wherein the woven palm thatch and the frame of umbrella can be move up and down in an open and closed position by moving the hub as the conventional umbrella. TikiTrader Inc. further teaches the woven palm thatch piece could be custom made that connects a plurality of prepared pieces together by

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suitable connecting means such as by nylon rope to form a continuously one-piece thatch.

Although TikiTrader Inc. does not define the woven palm thatch piece being a continuously woven one-piece circular thatch that is prepared and can be unattachably placed over the frame of the umbrella, Palapa Kings, Inc. teaches, a thatched umbrella comprising a conventional umbrella frame having a circular upper frame, a continuously woven one-piece circular thatch (9ft. Diameter) being prepared with predetermined diameter (i.e., 9 ft) and, then, being removably placed and secured over the circular upper frame for reducing and easily installing the thatched umbrella in an outdoor area. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the thatched umbrella of TikiTrader Inc. having the pieces of woven thatch being prepared into a continuously woven one-piece thatch in desirable shape such as a circular disk by suitable stitching such that the one-piece thatch can be removably placed over and secured on the umbrella frame thereafter as taught by Palapa Kings, Inc. as an obvious method of assembly for reducing installation time and easily installing and repositioning the umbrella in a desirable area.

Further, although TikiTrader Inc. and Palapa Kings, Inc. do not specify the thatched umbrella having a canopy overlaying and connected undernear of the woven palm thatched piece above the umbrella roof frame, Royal Thatch teaches a thatched roof structure including thatched pieces formed by thatches placed overlay a waterproofing membrane (b) to provide a waterproofing thatched tile used overlay various type roof structure such as umbrella type of structure by fasteners such as nails for providing a waterproofed thatched roof. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the thatched umbrella of TikiTrader Inc. in view of Palapa Kings, Inc. having a waterproofing

membrane made of variety waterproofing sheet of materials such as a fabric member as claimed being placed overplay the roof frame of the umbrella type of structure and undernear the thatched piece as taught by Royal Thatch, Inc. for providing an umbrella type of structure having a roof structure with heat and rain protection with desirable aesthetical appearance.

In regard to claims 4 and 10, although Safari Thatch and Royal Thatch not show the waterproofing membrane being selected from what particular fabric material, however, it would have been obvious to one skilled in the art to make the canopy of the umbrella of TikiTrader Inc. in view Palapa Kings, Inc. and in view of Royal Thatch being selected from a particular fabric material as claimed because the fabric materials, such as acrylic, polyester, nylon, cotton can canvas as claimed are well known fabric material used in the art which take advantage of desirable properties such as durable and waterproof, etc.

Notice, “a jig” in claim 9 merely recites an apparatus of intended use which is given very little patentable weight. How to made the thatches into a continuously woven one-piece circular thatch is not part of the claimed invention since the claims directly to an umbrella but not a method of making the elements of the umbrella.

Response to Amendment

3. In response to applicant's argument that the references to TikiTrader fails to show the one-piece thatch can be overlaid unattached or onto the canopy umbrella before attached to the umbrella frame, it is noted that the features upon which applicant relies are not recited in the rejected claims. Applicant only claims the umbrella having “a continuously woven one-piece circular thatch” but does not claim how to make it. And, how to made the thatches into a continuously woven one-piece circular thatch is not part of the claimed invention since the

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claims directly to an umbrella and a method of assembly the element, but not a method of making the elements of the umbrella. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Citation

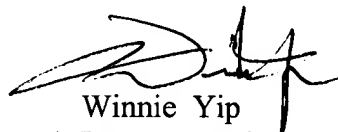
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A brochure on Web Site from Bamboo Hawaii teaches "an umbrella thatch cover" being a continuously one-piece thatch to be placed over an umbrella frame as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Winnie Yip
Patent Examiner
Art Unit 3637

wsy
February 10, 2003